

Message Text

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14-10

ACTION OPIC-06

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P R 140830Z MAR 75

FM AMEMBASSY KUALA LUMPUR

TO AMCONSUL HONG KONG PRIORITY

INFO SECSTATE WASHDC 9266

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HONG KONG PASS CECIL HUNT, OPIC

DEPARTMENT PASS OPIC

E.O. 11652: N/A

TAGS: EINV MY

SUBJECT: GOM DENIAL OF MOTOROLA APPLICATION

REF: KUALA LUMPUR 1192

1. COMMERCIAL ATTACHE MET WITH AMBRIN BIN BUANG, DEPUTY DIRECTOR, INDUSTRIES DIVISION, MINISTRY OF TRADE AND INDUSTRY (MTI) IN ATTEMPT TO ELICIT FURTHER INFORMATION AS TO GOM TURNDOWN OF MOTOROLA APPLICATION. AMBRIN MENTIONED THAT REASON FOR TURNDOWN WAS LEGAL INTERPRETATION OF WHAT CONSTITUTED AMERICAN CORPORATION. MALAYSIAN ATTORNEY GENERAL'S OFFICE DECIDED THAT SUBSIDIARY OF U.S. COMPANY INCORPORATED IN HONG KONG NOT IN FACT AN AMERICAN COMPANY FOR PURPOSES OF OPIC GUARANTEE. NO MENTION WAS MADE OF POSSIBLE NEGOTIATIONS WITH BRITISH REPORTED REFTEL.

2. OF PARTICULAR INTEREST WAS AMBRIN'S REMARK THAT MTI FOUND PRESENT INVESTMENT GUARANTEE AGREEMENT, ENTERED INTO IN 1959, VAGUE AND OPEN TO DIFFERING INTERPRETATIONS. HE STATED THAT GOM AGREEMENTS WITH LIMITED OFFICIAL USE

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OTHER COUNTRIES, WHICH ARE OF MUCH MORE RECENT VINTAGE,

CONSIDERABLY MORE DETAILED AND EASIER FOR MTI TO
WORK WITH.

3. UNDER REPEATED QUESTIONING, AMBRIN MAINTAINED
THAT TURNDOWN NOT AT ALL POLITICAL, BUT ENTIRELY BASED
ON LEGAL INTERPRETATION BY ATTORNEY GENERAL'S OFFICE.
HE WENT TO SOME LENGTHS TO POINT OUT HIGH REGARD GOM
HAS FOR MOTOROLA. AMBRIN GAVE CLEAR IMPRESSION THAT
GOM WOULD READILY AGREE TO MOTOROLA APPLICATION IF
COMPANY ADOPTED FACE-SAVING EXPEDIENT OF HAVING
MALAYSIAN SUBSIDIARY REPORT DIRECTLY TO U.S. PARENT
AND NOT TO HONG KONG OFFICE. COMATT POINTED OUT
THAT THIS WAS DECISION FOR COMPANY TO TAKE AND THAT
EMBASSY'S CONCERN WAS FOR THE PRINCIPLE INVOLVED
RATHER THAN GLOSSING OVER A POTENTIALLY TROUBLESOME
PRECEDENT.

4. MEETING WITH MTI'S VICTOR DE BRUYNE AND AMBRIN
PLUS REPRESENTATIVE FROM ATTORNEY GENERAL'S OFFICE
SET FOR HUNT ON MONDAY, MARCH 17 AT 2:30.

5. COMMENT: IN VIEW OF MTI MAINTAINING THAT LEGAL
CONSIDERATIONS PREDOMINANT FACTOR IN MOTOROLA TURNDOWN,
HUNT VISIT APPEARS EXCELLENT OPPORTUNITY TO DIRECTLY
MEET THIS ARGUMENT. EMBASSY PLANS TO DISCUSS WITH
HUNT HIS REACTION TO AMBRIN'S STATEMENT THAT PRESENT
AGREEMENT TOO VAGUE AND IN NEED OF REVISION. FOLLOWING
MEETING WITH MTI ON MONDAY, EMBASSY AND HUNT WILL
HAVE BETTER IDEA OF BEST LINE OF APPROACH TO RESOLVE
THIS AND OTHER OPIC PROBLEMS IN MALAYSIA.
UNDERHILL

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